APPENDIX

FEDERAL REGISTER

Title 44, section 305 of the Federal Code Annotated provides:

Federal Register; contents; comments or news items excluded. —(a) There shall be published in the Federal Register (1) all Presidential proclamations and Executive orders, except such as have no general applicability and legal effect or are effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof; (2) such documents or classes of documents as the President shall determine from time to time have general applicability and legal effect; and (3) such documents or classes of documents as may be required so to be published by Act of the Congress; Provided, That for the purposes of the Act (chapter) every document or order which shall prescribe a penalty shall be deemed to have general applicability and legal effect.

(b) In addition to the foregoing, there shall also be published in the Federal Register such other documents or classes of documents as may be authorized to be published pursuant hereto by regulations prescribed hereunder with the approval of the President, but in no case shall comments or news items of any character whatsoever be authorized to be published in the Federal Register. (July 26, 1935, c. 417, sec. 5, 49 Stat. 501.)

EXECUTIVE ORDER NO. 7298.

Regulations Governing the Preparation, Presentation, Filing and Distribution of Executive Orders and Proclamations.

By virtue of and pursuant to the authority vested in me by the Federal Register Act, approved July 26, 1935,

(49 Stat. 500), and as President of the United States, I hereby prescribe the following regulations governing the preparation, presentation, filing and distribution of Executive orders and proclamations:

1. Proposed Executive order and proclamation shall be prepared in accordance with the following requirements:

(a) A suitable title for the order or proclamation shall be provided.

(b) The authority under which the order or proclamation is promulgated shall be cited in the body thereof.

(c) Punctuation, capitalization, orthography, and other matters of style shall conform to the most recent edition of the Style Manual of the United States Government Printing Office.

(d) The spelling of geographic names shall conform to the most recent official decisions made pursuant to Executive Orders No. 27-A, of September 4, 1890, No. 399, of January 23, 1906, and No. 6680, of April 16, 1934.

(e) Descriptions of tracts of lands shall conform, so far as practicable, with the most recent edition of the Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations, published by the Federal Board of Surveys and Maps.

(f) Proposed Executive orders and proclamations shall be typewritten on paper approximately 8 by 12½ inches, shall have a left-hand margin of approximately 2 inches and a right-hand margin of approximately 1 inch, and shall be double-spaced, except that quotations, tabulations, or descriptions of land may be single-spaced.

2. The proposed Executive order or proclamation shall first be submitted to the Director of the Bureau of the

Budget. If the Director of the Bureau of the Budget approves it, he shall transmit it to the Attorney General for his consideration as to both form and legality. If the Attorney General approves it, he shall transmit it to the Director of the Division of the Federal Register, the National Archives. If it conforms to the requirements of paragraph 1 hereof, the Director of the Division of the Federal Register shall transmit it and three copies thereof to the President. If it is disapproved by the Director of the Bureau of the Budget or the Attorney General, it shall not thereafter be presented to the President unless it is accompanied by the statement of the reasons for such disapproval.

3. If the order or proclamation is signed by the President, the original and two copies thereof shall be forwarded to the Director of the Division of the Federal Register for appropriate action in conformity with the provisions of the Federal Register Act; Provided, however, That the seal of the United States shall be affixed to the originals of all proclamations prior to such forwarding. The Division of the Federal Register shall cause to be placed upon the copies of all Executive orders and proclamations the following notation, to be signed by the Director or by some person authorized by him; "Certified to be a true copy of the original." The Division of the Federal Register shall number and shall supervise the promulgation, publication, and distribution of all Executive orders and proclamations.

4. The Division of the Federal Register shall cause a limited number of copies of the Executive orders and proclamations not required or authorized to be filed and published under the provisions of the Federal Register

Act to be made available in slip form to the appropriate agencies of the Government.

5. The Division of the Federal Register shall file in the National Archives the originals of all Executive orders and proclamations.

6. The signed originals and copies of all Executive orders and proclamations heretofore promulgated and now in the custody of the Department of State shall be transferred to the National Archives.

7. Nothing in this order shall be construed to apply to treaties, conventions, protocols, and other international agreements, or proclamations thereof by the President.

8. This order shall become effective on March 12, 1936, and shall thereupon supersede Executive Order No. 6247, of August 10, 1933.

FRANKLIN D. ROOSEVELT.

The White House,
February 18, 1936.

306. *Administrative Committee, members and officers; Rules and Regulations; Scope.*—There is established a permanent Administrative Committee of three members consisting of the Archivist or Acting Archivist, who shall be chairman, an officer of the Department of Justice designated by the Attorney General and the Public Printer or Acting Public Printer. The Director of the Division shall act as secretary of the committee. The committee shall prescribe, with the approval of the President, regulations for carrying out the provisions of this Act (chapter). Such regulations shall provide, among other things; (a) The manner of certification of copies required to be certified under section 2, (sec. 302 of this title), which certification may be permitted to be based upon confirmed

communications from outside of the District of Columbia; (b) the documents which shall be authorized pursuant to section 5(b) (305 b of this title) to be published in the Federal Register; (c) the manner and form in which the Federal Register shall be printed, reprinted, compiled, indexed, bound and distributed; (d) the number of copies of the Federal Register which shall be printed, reprinted and compiled, the number which shall be distributed without charge to Members of Congress, officers and employees of the United States, or any Federal agency for their official use, and the number which shall be available for distribution to the public; and (e) the prices to be charged for individual copies of, and subscriptions to, the Federal Register and reprints and bound volumes thereof. (July 26, 1935, c. 417 sec. 6, 49 Stat. 501).

307. *Filing of documents as notice thereof; presumption created by publication; judicially noticed; how cited.*—No document required under section 5 (a) (305(a) of this title) to be published in the Federal Register shall be valid as against any person who has not had actual knowledge thereof until the duplicate originals or certified copies of the document shall have been filed with the Division and a copy made available for public inspection as provided in section 2, (302 of this title), and, unless otherwise specifically provided by statute, such filing of any document, required or authorized to be published under section 5 (305 of this title), shall, except in cases where notice by publication is insufficient in law, be sufficient to give notice of the contents of such document to any person subject thereto or affected thereby. The publication in the Federal Register of any document shall create a rebuttable presumption (a) that it was duly issued, prescribed or promulgated; (b) that it was duly

filed with the Division and made available for public inspection at the day and hour stated in the printed notation; (c) that the copy contained in the Federal Register is a true copy of the original; and (d) that all requirements of this Act (chapter) and the regulations prescribed hereunder relative to such document have been complied with. The contents of the Federal Register shall be judicially noticed and, without prejudice to any other mode of citation, may be cited by volume and page number. (July 26, 1935, c. 417, sec. 7, 49 Stat. 502.)

308. *Notice by publication to include United States; requirements.*—Whenever notice of hearing or of opportunity to be heard is required or authorized to be given by or under an Act of Congress, or may otherwise properly be given, the notice shall be deemed to have been duly given to all persons residing within the continental United States (not including Alaska), except in cases where notice by publication is insufficient in law, if said notice shall be published in the Federal Register at such time that the period between the publication and the date fixed in such notice for the hearing or for the termination of the opportunity to be heard shall be (a) not less than the time specifically prescribed for the publication of the notice by the appropriate Act of the Congress; or (b) not less than fifteen days when no time for publication is specifically prescribed by the Act, without prejudice, however, to the effectiveness of any notice of less than fifteen days where such shorter period is reasonable. (July 26, 1935, c. 417, sec. 8, 49 Stat. 502.)

309. *Payments into Treasury as miscellaneous receipts; appropriation; free use of mails; foreign mailing.*—Every payment made for the Federal Register shall be covered into the Treasury as a miscellaneous receipt. The cost of

printing, reprinting, wrapping, binding, and distributing the Federal Register and any other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this Act (chapter) shall be borne by the appropriations to the Government Printing Office and such appropriations are hereby made available, and are authorized to be increased by such additional sums as are necessary for such purposes, such increases to be based upon estimates submitted by the Public Printer. The purposes for which appropriations are available and are authorized to be made under section 10 of the Act entitled "An Act to establish a National Archives of the United States Government, and for other purposes" (48 Stat. 1122) (40:240) are enlarged to cover the additional duties placed upon the National Archives Establishment by the provisions of this Act (chapter). Copies of the Federal Register mailed by the Government shall be entitled to the free use of the United States mails in the same manner as the official mail of the executive departments of the Government. The cost of mailing the Federal Register to officers and employees of Federal agencies in foreign countries shall be borne by the respective agencies. (July 26, 1935, c. 417, sec. 9, 49 Stat. 502.)

310. *Effective dates; limitations.*—The provisions of section 2 (sec. 302 of this title) shall become effective sixty days after the date of approval of this Act (July 26, 1935), and the publication of the Federal Register shall begin within three business days thereafter, Provided, That the appropriations involved have been increased as required by section 9 of this Act (sec. 309 of this title), to be published in the Federal Register shall not be operative as to any document issued, prescribed or promulgated prior to the date when such document is first required by this

(chapter) or subsequent Act of the Congress or by Executive order to be published in the Federal Register. (July 26, 1935, c. 417, sec. 10, 49 Stat. 503.)

310(a). *Increased appropriation, availability.*—The provisions of section 2 of the Federal Register Act (sec. 302 of this title) shall become effective thirty days after said appropriations become available and the publication of the Federal Register shall begin within two business days thereafter. (Feb. 11, 1936, c. 49, Title I, 49 Stat. 1110.)

311. *Prior documents, supplemental publication.*—Within six months after the approval of this Act (July 26, 1935) each agency shall prepare and file with the committee a complete compilation of all documents which have been issued or promulgated prior to the date documents are required or authorized by this Act (chapter) to be published in the Federal Register and which are still in force and effect, and relied upon by the agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities. The committee shall within sixty days thereafter report with respect thereto to the President, who shall determine which of such documents have general applicability and legal effect, and shall authorize the publication thereof in a special or supplemental addition or issue of the Federal Register. Such special or supplemental editions or issues shall be distributed in the same manner as regular editions or issues, and shall be included in the bound volumes of the Federal Register as supplements thereto. (July 26, 1935, c. 417, sec. 11, 49 Stat. 503.)

Section 307 this title does not apply to compilation referred to in this section and does not affect validity and constructive notice of documents already issued which may or may not be included in compilations.

312. *Documents not Included.*—Nothing in this Act (chapter) shall be construed to apply to treaties, conventions, protocols, and other International Agreements or proclamations thereof by the President. (July 26th, 1935, c. 417, sec. 12, 49 Stat. 503.)

313. *Conflicting Acts Repealed.*—All Acts or parts of Acts in conflict with this Act (chapter) are hereby repealed in so far as they conflict herewith. (July 26, 1935, c. 417, sec. 13, 49 Stat. 503.)

314. *Short Title.*—This Act (chapter) may be cited as the (Federal Register Act). (July 26, 1935, c. 417, sec. 14, 49 Stat. 503.)

O. P. A. REGULATIONS

Section 5.1. *Purposes of Article V.* (*a*) *Generally.* Article V establishes maximum prices for sales of packaged (but not bulk) distilled spirits and wine by the following persons: (1) Wholesalers, as defined in section 7.12; (3) Monopoly states, as defined in section 7.12 and (4) Primary Distributing Agents, as defined in section 7.12.

(c) *Prior regulations, orders and interpretations superseded.*—Except as otherwise provided in this regulation, Article V supersedes all other maximum price regulations, orders and interpretations issued by the Office of Price Administration before August 14th, 1943, with respect to sales of packaged, imported and domestic distilled spirits or wines by any wholesaler, retailer, monopoly state, or primary distributing agent, including the applicable provisions of the following:

(1) The general maximum price regulation;

(2) Maximum Price Regulation Number 193, as amended;

(3) Orders No. 1 through 5 inclusive under Maximum Price Regulation No. 193;

(4) Article 2 of Revised Supplementary Regulation No. 14;

(5) Section 2.3 (b) of Section 1499.26 of Revised Supplementary Regulation No. 1;

Provided, that such maximum price regulations, orders and interpretations shall remain in effect with respect to a particular sale of packaged distilled spirits or wine by any such person until provisions of this article become applicable thereto.

Section 5.2. *General Rules for Figuring Maximum Prices.* (a) *When Maximum Prices are to be Figured.*— Each wholesaler, retailer, monopoly state and primary distributing agent must figure a maximum price for any item to be sold on and after August 14th, 1943, as follows:

1. *Items in stock at the close of business on August 9, 1943.* Initial maximum prices for each item in stock at the close of business on August 9, 1943, must be figured between August 14th, 1943, and August 30, 1943, and will apply to all sales, offers to sell and deliveries of the item made on and after August 30, 1943, unless applicability of such prices to certain sales is delayed by provisions of section 5.10, permitting compliance with state price posting or listing requirements and practices. Until the initial maximum prices for such items become applicable, a wholesaler, retailer, monopoly state and primary distributing agent may continue to sell, offer for sale or delivery, those items at maximum prices established under regulations and orders of the Office of Price Administration in effect prior to the issuance of this article.

2. *Items not in stock at the close of business on August 9, 1943.* Initial maximum prices for each item not in stock at the close of business August 9, 1943, are to be

figured and made applicable before any sale, offer to sell or delivery of the item is made. No wholesaler, retailer, monopoly state or primary distributing agent shall sell, offer for sale, or deliver any item not in stock at the close of business on August 9, 1943, until after establishing initial maximum prices for the item in accordance with this article.

3. *Refiguring maximum prices.* A wholesaler, retailer, monopoly state or primary distributing agent must refigure a maximum price for an item in accordance with this article if cost for the item changes after the maximum price has been established.

(b) *Figuring maximum prices for each item separately.* Each item of packaged distilled spirits or wine to be sold or offered for sale by a wholesaler, retailer, monopoly state, or primary distributing agent after August 29, 1943, must have a separate maximum price. An "item" is a particular brand name, container size, type, designation or formula of distilled spirits or wine. One item must not be considered the same as another if there is any difference in (1) their brand names, or (2) their countries of origin, or (3) the names of their processors, or (4) their container sizes (quarts as compared with fifths, pints as compared with half-pints, etc.,) or (5) requirements of United States labeling laws or regulations applicable to each or in material information contained on their labels. Age, proof, alcoholic content, type designation, vintage and ingredients, as stated on the labels shall be deemed material information.

(c) *Customer classifications.* (1) Each wholesaler, retailer, and primary distributing agent must establish a separate maximum price for each item to each class of his customers he sells as follows:

(i) *For wholesalers.* Customers are to be classified as retailers, consumers, wholesale or monopoly states.

(ii) *For retailers.* Customers are to be classified as consumers or retailers.

(d) *Discounts, allowances, price differentials and terms of sale.* (1) Customary discounts in effect during March, 1942, in accordance with a wholesalers', retailers' or a primary distributing agents' March, 1942, customer classifications, must be applied to his maximum prices established under this article; provided, that discounts and allowances based solely on quantity purchases (in dollars or units) need not be maintained.

(2) If a wholesaler, retailer, or primary distributing agent makes his terms of sale to a customer more onerous than those in effect during March, 1942, for his sales to a customer of the same class, he must make a compensating reduction from his maximum price established under this article.

(e) *Wholesaler or Retailer acting as a Primary Distributing Agent with respect to certain Items only.* A wholesaler or retailer who is a primary distributing agent for certain items shall determine his maximum price for sales of those items in accordance with provisions of this article applicable to primary distributing agents. He shall determine his maximum price for sales of other items under the provisions of this article applicable to wholesalers or retailers as may be the case.

(f) *F.O.B. and Delivered Prices.*—(1) Maximum Prices established under this article for a wholesaler, retailer, or primary distributing agent are prices f.o.b. the metropolitan area of warehouse or place of business.

Sec. 5.3. *Determination of "net cost" used in figuring maximum prices for wholesalers, retailers and monopoly states.* (a) What purchases may be used to determine net cost. Except as otherwise provided in this article, a "base purchase" to be used by a wholesaler, retailer, or monopoly state to determine net cost of an item must be a purchase by him from a customary type of supply delivered by a customary means of transportation. No accommodation purchase (whether or not from a customary type of supplier) shall be used as a base purchase in determining net cost of an item. Purchases made on memorandum invoice or purchases of small quantities of an item at exceptional prices to fill a shortage are accommodation purchases. No purchase (whether or not from a customary type of supply) to fill an order of the United States or any agency thereof shall be used as the base purchase.

(b) *Elements of net cost.* The net cost to be used by a wholesaler, retailer or monopoly state, to determine a maximum price is a total of the following elements of costs actually paid by him with respect to a particular base purchase of the item to be priced.

(1) Purchase price. The suppliers selling price (not in excess of his maximum price under applicable regulation or orders of the Office of Price Administration.)

(i) Excepting any discount for prompt payment (cash discount); but

(ii) Including any amount subtracted from the suppliers' maximum price to compensate for discontinuance of a discount for prompt payment.

(2) *Freight.* Transportation charges from the supplier's point of shipment to the wholesaler's, retailer's, or mon-

opoly state's customary receiving point for the item, at the rate paid. No amount shall be included for

(i) Any transportation charges from point of shipment included in the supplier's selling price; or

(ii) Expense of hauling, drayage or handling within the metropolitan area of the shipping or receiving point; Provided, That a monopoly state may include such portion of that expense as it customarily included during March, 1942, in determining cost for purposes of mark-up.

(3) *Taxes and United States customs duties.* (i) For wholesalers and retailers. United States customs duties and United States state and local excise taxes at rates in effect on November 2, 1942, if not included in the suppliers' selling price.

Section 5.4. *Maximum Prices for wholesalers.*

(a) Generally. A wholesaler must establish his maximum prices to each class of customers as follows:

(1) For initial maximum prices—use paragraph (b).

(2) For a refigured maximum price if net cost for the item changed after August 29, 1943,—use paragraph (c).

(b) Initial maximum prices. (1) For sales to retailers. A wholesaler's initial maximum price per case to retailers shall be his net cost per case (figured according to section 5.3) for his latest base purchase of the item, or if he made no base purchase of the item since March, 1942, his net cost per case (figured according to section 5.3) for his most recent purchase of the item from any supplier, except from another wholesaler, multiplied by the percentage mark-up for the item being priced as follows:

(i) 1.15 for distilled spirits.

(ii) 1.25 for wine.

(iii) 1.20 for cordials, liquors and specialties.

(2) *For sales to consumers.* A wholesaler's initial maximum price per case to a consumer shall be his net cost per case (figured according to section 5.3) for his latest base purchase of the item, or if he has made no base purchase of the item since March 1942, his net cost per case (figured according to section 5.3) for his most recent purchase of the item from any supplier, multiplied by the percentage mark-up provided in section 5.5 for sales of the same item by retailers to consumers.

A wholesaler's maximum price per case to any class of customers for an item purchased by him from another wholesaler shall not exceed the higher of

(i) His own maximum price for the item to a customer of the particular class figured according to the applicable provisions of this section, or

(ii) With respect to sales to retailers or consumers, the supplier's maximum price for a sale of the item to a customer of the particular class as stated in such notice.

Changes in maximum prices. (1) How long particular maximum prices continue in effect. A wholesaler's initial maximum prices and refigured maximum prices for an item shall apply to all his sales and offers to sell of the item so priced made prior to the data on which subsequently refigured maximum prices for sales thereof became applicable in accordance with (4) of this paragraph.

(2) When a wholesaler must refigure his maximum prices. A wholesaler who after August 29, 1943, receives a base purchase of an item shall figure his net cost therefor according to Section 5.3. If such net cost per case differs from the net cost per case for the base purchase used in establishing the wholesaler's maximum prices then in effect for the item, the wholesaler may, if the

most recent purchase shows the greater total and he must, if the most recent purchase shows the lesser total, establish refigured maximum prices for the item; Provided, That is the difference in net cost is 15 cents per case or less, the wholesaler shall not establish refigured maximum prices.

(3) How a wholesaler must refigure his maximum prices. A wholesaler required or permitted by this paragraph to establish refigured maximum prices for an item shall determine such prices under paragraph (b) of this section, substituting, however, the net cost for his most recent base purchase for the net cost of his earlier base purchase.

(4) When refigured maximum prices become applicable. His refigured maximum prices determined under this paragraph shall apply to stock on hand and shall be the wholesaler's maximum prices for sales of the item on and after, but not before, the 4th day (exclusive of Sundays and holidays) following receipt of the base purchase to be used to establish such refigured maximum prices, until in turn superseded by other refigured maximum prices subsequently determined; Provided, That until on and after the earliest effective date for prices posted or listed at the first opportunity after the 4th day (exclusive of Sundays and holidays) after receipt of such base purchase, refigured maximum prices shall not apply to any sale which a wholesaler is required by statute, ordinance or regulation to make at a price posted or listed with a state or other public authority before receipt of the base purchase.

Section 5.5. *Maximum prices for retailers.* (Note) A retailer who is the processor or primary distributing agent of an item must not use this Section to determine maxi-

mum prices for that item unless permitted to do so by provisions of this regulation establishing maximum prices for processors or primary distributing agents.

(a) Generally. A retailer must establish his maximum prices to each class of customers as follows:

(1) For initial maximum prices—use paragraph (b).

(2) For a refigured maximum price if net cost for the item changes after August 29, 1943, use paragraph (c).

(b) Initial maximum prices.—(1) For sales to consumers. A retailer's initial maximum price per case to consumers shall be his net cost per case (figured according to section 5.3) for his latest base purchase of the item, or if he made no base purchase of the item since March, 1942, his net cost per case (figured according to section 5.3) for his most recent purchase of the item from any supplier, multiplied by the percentage markup for the item being priced as follows:

(i) 1.333 for distilled spirits.

(ii) 1.50 for wine.

(iii) 1.45 for cordials, liqueurs and specialties.

(2) For sales to another retailer. A retailer's initial maximum price per case to another retailer shall be his net cost per case (figured according to section 5.3) for his latest base purchase of the item, or if he made no base purchase of the item, or if he made no base purchase of the item since March, 1942, his net cost per case (figured according to section 5.3) for his most recent purchase of the item from any supplier. No mark-up shall be added for such sales.

(Note) A base purchase made between August 9, 1943, and August 30, 1943, may be used to figure initial maximum

prices. A retailer is not required to establish a refigured maximum price for an item until he makes a base purchase thereof after August 29, 1943.

(c) *Changes in maximum prices.*—(1) How long particular maximum prices continue in effect. A retailer's initial maximum prices and refigured maximum prices for an item shall apply to all his sales and offers to sell of the item so priced made prior to the date on which subsequently refigured maximum prices for sales thereof become applicable in accordance with (4) of this paragraph.

(2) *When a retailer must refigure his maximum prices.* A retailer who after August 29, 1943, receives a base purchase of an item shall figure his net cost therefor according to section 5.3 If such net cost per case differs from the net cost per case for the base purchase used in establishing the retailer's maximum prices then in effect for the item, the retailer may, if the most recent purchase shows the greater total and he must, if the most recent purchase shows the lesser total, establish refigured maximum prices for the item; Provided, That if the difference in net cost is 15 cents per case or less, the retailer shall not establish refigured maximum prices.

(3) *How a retailer must refigure his maximum prices.* A retailer required or permitted by this paragraph to establish refigured maximum prices for an item shall determine such prices under paragraph (b) of this section, substituting however, the net cost for his most recent base purchase for the net cost of his earlier base purchase.

(4) *When refigured maximum prices become applicable.* His refigured maximum prices determined under this paragraph shall apply to stock on hand and shall be the retailer's maximum prices for sales of the item on and

after but not before, the 4th day (exclusive of Sundays and holidays) following receipt of the base purchase to be used to establish such refigured maximum prices, until in turn superseded by other refigured maximum prices subsequently determined; Provided, That until on and after the earliest effective date for prices posted or listed at the first opportunity after the 4th day (exclusive of Sundays and holidays) after receipt of such base purchase, refigured maximum prices shall not apply to any sale which a retailer is required by statute, ordinance or regulation to make at a price posted or listed with a state or other public authority before receipt of the base purchase.